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**REMARKS**

Claims 2, 3, 62, 68, and 76 have been amended to specifically recite the formation of the organically modified aerogel, which is also recited in the preamble. No new matter has been added. Also, claim 103 has been amended to remove the multiple dependency. Thus, claims 2-4, 6, 7, 56-59, 62, 63, 67, 68, 71, 76, 77, 79-115, 117, and 119 are pending.

**Rejection of Claims**

The Examiner has rejected claims 2-4, 6-7, 56-59, 62-63, 67-68, 71, 76-77, 79-81, 86-88, 90-95, 96-115, 117, and 119 under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over McDaniel et al. (U.S. Patent No. 4,316,807). Applicant respectfully disagrees.

In paragraph 4 of the Office Action mailed July 12, 2007, the Examiner states that McDaniel et al. discloses the formation of aqueous solution, suspension, or dispersions of silane-treated hydrous inorganic materials selected from the group consisting of silicon oxide, aluminum oxide, and mixtures thereof. In particular, the Examiner states that McDaniel et al. discloses adding acid including HCl to sodium silicate and/or sodium aluminate to form a hydrogel at a pH of about 7-11, and this gel is subsequently followed by the addition of an alkoxysilane to form the silane treated hydrous inorganic materials. Also, the Examiner states that McDaniel et al. discloses that additives such as water loss inhibitors as well as further conventional additives employed in the drilling fluid composition art can be used and that fibers are well known in the art as fluid loss additives in the drilling fluid art.

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In addition, the Examiner states that some of the present claims set forth the preamble that the process is directed to a process for preparing an organically modified aerogel but fails to provide a clear and positive statement/step in the body of the claim requiring that an aerogel is formed. The Examiner notes that these claims have been included in this rejection as they do not distinguish since the process claimed employing the process steps as claimed may be employed in making materials other than aerogels.

Regarding claims 2-4, 6-7, 62-63, 67-68, 71, 76-77, 79-81, 86-88, 90-95, 96-103, 107-115, independent claims 2, 3, 62, 68, and 76 each recite a process for preparing an organically modified aerogel in the preamble. While Applicants believe that this preamble does provide a distinguishing feature, in order to advance the prosecution of the present application, each of these claims have been amended to recite in step c) that the organically modified aerogel is formed.

Since there is no disclosure, teaching, or suggestion anywhere in McDaniel et al. of the formation of an aerogel, particularly by the recited process, Applicants therefore believe that claims 2, 3, 62, 68, and 76 are not anticipated by and are not obvious over this reference. In addition, claims 4, 6-7, 63, 67, 71, 77, 79-81, 86-88, 90-95, 96-103, and 107-115, which depend directly or indirectly from claims 2, 3, 62, 68, or 76, recite further embodiments of the present invention and, for at least the reasons discussed above, are also patentable over McDaniel et al. Thus, Applicants believe that claims 2-4, 6-7, 62-63, 67-68, 71, 76-77, 79-81, 86-88, 90-95, 96-103, 107-115 are patentable over McDaniel et al.

Regarding claims 56-59, 104-106, 117, and 119, independent claims 56, 57, 59, 104, and 105 each recite a process for producing an organically modified lyogel. In step a) of the process, a hydrogel is formed or introduced as an initial charge. In step b), that hydrogel is surface modified.

By comparison, while McDaniel et al. describes a process of forming a silane-treated inorganic material, this is not the process of the present invention. In particular, the silane used is not added after the hydrogel is formed. Rather, as specifically stated in McDaniel et al., "[t]he silane is to be added prior to complete formation of the hydrogel" (see column 5, lines 47-57). This is also shown in the Examples. Since the silane is added before the

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hydrogel is completely formed, the resulting silane-modified inorganic composition is not surface-modified. Rather, according to McDaniel et al., "it is believed that the silane ... causes a certain degree of disorientation of the inorganic oxide lattice while forming therein unhydrolyzable silicon to carbon bonds" (see column 5, line 67 to column 6, lines 7).

Since there is no disclosure, teaching, or suggestion in McDaniel et al. of separate steps of forming a hydrogel and of subsequent surface modifying of this hydrogel, Applicants therefore believe that present claims 56, 57, 59, 104, and 105 are not anticipated by and are not obvious over this reference. In addition, claims 58, 106, 117, and 119, which depend directly or indirectly from claims 56, 57, 59, 104, and 105, recite further embodiments of the present invention and, for at least the reasons discussed above, are also patentable over McDaniel et al. Thus, Applicants believe that claims 56-59-104-106, 117, and 119 are patentable over McDaniel et al.

Applicants therefore believe that claims 2-4, 6-7, 56-59, 62-63, 67-69, 71, 76-77, 79-81, 86-88, 90-95, 96-115, 117, and 119 are not anticipated by and not obvious over McDaniel et al. and respectfully request that the rejection of these claims be withdrawn.

#### **Double Patenting and Allowable Subject Matter**

Applicants note that, as stated in the Office Action mailed August 27, 2007, the Terminal Disclaimer filed April 10, 2007 has been reviewed and accepted.

In addition, the Examiner has objected to claims 82-85 and 89 as being dependent upon a rejected base claim, stating that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants are grateful for the allowable subject matter. However, as discussed in more detail above, Applicants believe that the pending claims, including the base claim from which claims 82-85 and 89, are patentable over the cited reference and should therefore be in condition for allowance.


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Conclusion

In view of the foregoing amendments and remarks, Applicants believe that this application is in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would further expedite the prosecution of the subject application, the Examiner is invited to call the undersigned.

Respectfully submitted,



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